

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

DAVID SYLVESTER SAMSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.: <b>2:07-CV-397-ID</b>
	)	
MICHAEL CHERTOFF, Secretary of	)	
the Dep't of Homeland Security, et al.,	)	
	)	
Defendants.	)	

**UNITED STATES MOTION TO DISMISS**

The United States, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, moves to dismiss this action pursuant to Rule 12 (b) (1) of the Federal Rules of Civil Procedure because it is moot. The grounds for this motion are that:

1. The plaintiff seeks a court hearing on his petition for naturalization, or in the alternative, a remand to the agency requiring it to immediately adjudicate the plaintiff's naturalization application. *See* Complaint.
2. The Department of Homeland Security, Citizenship and Immigration Services, adjudicated and approved the plaintiff's petition on or about July 17, 2007 and the plaintiff took the naturalization oath on August 14, 2007 . *See*, plaintiff's Form N-400, attached as Exhibit 1.
3. Article III of the Constitution of the United States limits the power of the federal courts to actual cases or controversies. Const. art. III, § 2, cl. 1. "A case is moot

when it no longer presents a live controversy with respect to which the court can give meaningful relief.” *Cameron-Grant v. Maxim Healthcare Services, Inc.*, 347 F.3d 1240, 1245 (11<sup>th</sup> Cir. 2003), *cert. denied*, 124 S.Ct. 2096 (2004), *quoting* 31 *Foster Children v. Bush*, 329 F.3d 1255, 1263 (11<sup>th</sup> Cir. 2003), *cert. denied*, 124 S.Ct. 483 (2003). The federal courts are without power to decide questions that will no longer affect the rights of the litigants in the case before them. *North Carolina v. Rice*, 404 U.S. 244, 246 (1971).

4. The action the plaintiff seeks has already been performed. Accordingly, plaintiff’s petition for a writ of mandamus will no longer affect the rights of the litigants before the Court, and this case is moot.

WHEREFORE, pursuant to Rule 12 (b) (1) of the Federal Rules of Civil Procedure, the United States moves to dismiss this action for lack of subject-matter jurisdiction.

Respectfully submitted this 5<sup>th</sup> day of September, 2007.

LEURA G. CANARY  
United States Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 5, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Plaintiff's Attorney, John R. Parker, Esquire.

s/R. Randolph Neeley

Assistant United States Attorney

Form N-445, Notice of Naturalization Oath Ceremony

A#

76 957 614

Date

8/8/07

• DAVID SAMSON  
449 Canyon Rd  
Westumpka, AL 36093  
•

You are hereby notified to appear for a Naturalization Oath Ceremony on:

August 14, 2007

at:

US Citizenship and Immigration Services  
2150 Parklake Drive NE  
Atlanta, GA 30345

Ceremony Room 1

2nd  
Floor

Please report promptly at

1:45 PM

You must bring the following with you:

- ☐ This letter, WITH ALL THE QUESTIONS ON PAGE 2 ANSWERED. TYPE OR PRINT ANSWERS IN BLACK INK.
- ☐ Permanent Resident Card.
- ☐ Reentry Permit or Refugee Travel Document.
- ☐ Any Immigration documents you may have.
- ☐ If the naturalization application is on behalf of your child (children), bring your child (children).
- ☐ Other.

Proper attire should be worn.

If you cannot come to this ceremony, return this notice immediately and state why you cannot appear. In such case you will be sent another notice of ceremony at a later date. You must appear at the oath ceremony on your first attempt.

U.S. Department of Justice  
Immigration and Naturalization Service

OMB No. 1115-0009

## Application for Naturalization

Print clearly or type your answers using CAPITAL letters. Failure to print clearly may delay your application. Use black or blue ink.

**Part 1. Your Name (The Person Applying for Naturalization)**

Write your INS "A"- number here:

A 076957614

## A. Your current legal name.

Family Name (Last Name)

SAMSON

Given Name (First Name)

DAVID

Full Middle Name (If applicable)

SYLVESTER

## FOR INS USE ONLY

Bar Code

Date Stamp

Remarks

No file

JUL 15 2006  
TX2300015

## B. Your name exactly as it appears on your Permanent Resident Card.

Family Name (Last Name)

SAMSON

Given Name (First Name)

DAVID

Full Middle Name (If applicable)

SYLVESTER

## C. If you have ever used other names, provide them below.

Family Name (Last Name)

N/A

Given Name (First Name)

Middle Name

## D. Name change (optional)

Please read the Instructions before you decide whether to change your name.

1. Would you like to legally change your name? ☐ Yes ☒ No
2. If "Yes," print the new name you would like to use. Do not use initials or abbreviations when writing your new name.

Family Name (Last Name)

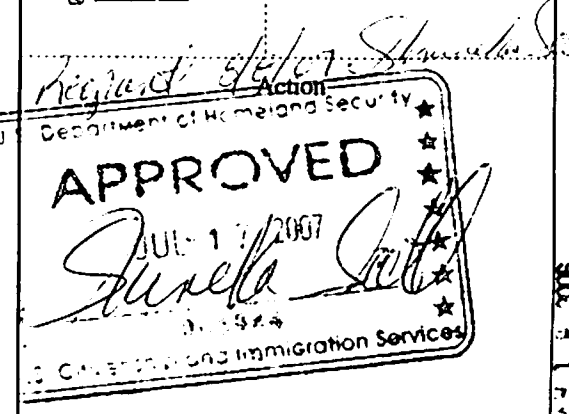
Given Name (First Name)

Full Middle Name

**Part 2. Information About Your Eligibility (Check Only One)**

I am at least 18 years old AND

- A. ☒ I have been a Lawful Permanent Resident of the United States for at least 5 years.
- B. ☐ I have been a Lawful Permanent Resident of the United States for at least 3 years, AND I have been married to and living with the same U.S. citizen for the last 3 years, AND my spouse has been a U.S. citizen for the last 3 years.
- C. ☐ I am applying on the basis of qualifying military service.
- D. ☐ Other (Please explain) \_\_\_\_\_



JAN 06 2006